



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Registered Nurse License Number 745468	§	FOR
& Vocational Nurse License Number 168924	§	DEFERRED DISCIPLINE &
issued to SHEILA SUSAN CUNNINGHAM	§	KSTAR PROGRAM
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SHEILA SUSAN CUNNINGHAM, Registered Nurse License Number 745468, and Vocational Nurse License Number 168924, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order for Deferred Discipline & KSTAR Program approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on May 7, 2021.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived notice and hearing, and agreed to the entry of this Agreed Order for Deferred Discipline & KSTAR Program.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Victoria College, Seguin, Texas, on August 13, 1998. Respondent received a Baccalaureate Degree in Nursing from Texas Tech University, Lubbock, Texas, on May 19, 2007. Respondent was licensed to practice vocational nursing in the State of Texas on September 23, 1998. Respondent was licensed to practice professional nursing in the State of Texas on July 31, 2007.

5. Respondent was licensed to practice professional nursing in the State of Texas on July 31, 2007.

6. Respondent's nursing employment history includes:

09/1998 – 05/2013	Unknown	Unknown
06/2013 – 11/2018	RN	Northwest Surgery Center Austin, Texas
08/2016 – 03/2019	RN	Seton Medical Center – Williamson Round Rock, Texas
03/2019 – 04/2019	PACU Float Pool RN	HCA Healthcare Austin, Texas
05/2019 – Unknown	RN	Seton Medical Center – Williamson Round Rock,
2019 - Present	Float Pool RN	Specialty Staffing Solutions City, State

7. At the time of the initial incident, Respondent was employed as a Registered Nurse (RN) with North Austin Surgery Center, Austin, Texas, and had been in that position for less than one (1) month.

8. On or about April 3, 2019, while employed as a Float Pool Registered Nurse (RN) with HCA Healthcare, Austin, Texas, and scheduled at North Austin Surgery Center, Austin, Texas, although Respondent assessed the patient, and documented in the record, Respondent failed to clarify with the physician before administering Fentanyl to Patient Number 67904 outside the parameters of the physician's order. Respondent's conduct could have exposed the patient to a risk of harm.

9. On or about April 3, 2019, and April 4, 2019, while employed as a Float Pool Registered Nurse (RN) with HCA Healthcare, Austin, Texas, and scheduled at North Austin Surgery Center, Austin, Texas, Respondent failed to accurately and completely document, the administration of Percocet in the patients' medication administration record (MAR). Respondent's conduct created an inaccurate record.

10. On or about April 3, 2019, and April 4, 2019, while employed as a Float Pool Registered Nurse (RN) with HCA Healthcare, Austin, Texas, and scheduled at North Austin Surgery Center, Austin, Texas, Respondent signed out Percocet and Fentanyl on the Controlled Substance Log for Patient Number 25479 and 67904, but failed to accurately and completely document the wastage of the unused portions of the medications.

11. On or about April 3, 2019, and April 10, 2019, while employed as a Float Pool Registered Nurse (RN) with HCA Healthcare, Austin, Texas, and scheduled at North Austin Surgery Center, Austin, Texas, Respondent administered one (1) Percocet 5/325mg tablet to Patient Number 67904 and two (2) Percocet 5/325mg tablets to Patient Number 66891, in excess frequency of the physician's order.
12. In response to Findings of Fact Numbers Seven (7) through Twelve (12), Regarding Patient 25479, Respondent admits she signed out Percocet at 1718, but another nurse documented administration at 1715. Respondent also admits she documented a "late entry" and signed out one (1) Percocet for the patient, but did not document administration in the MAR. Regarding Patient 67904, Respondent admits she withdrew Percocet at 0030 but did not document the administration in the MAR. Respondent adds that she documented on the Medication Reconciliation form that Percocet was given to the patient at 0030. Respondent denies that she misappropriated any medications.
13. Respondent has produced four positive character letters and three positive performance evaluations.
14. Respondent does not have a prior disciplinary history with the Board.
15. Formal Charges were filed on November 4, 2020.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),& (4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 745468, and Vocational Nurse License Number 168924, heretofore issued to SHEILA SUSAN CUNNINGHAM.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS, DEFERRED**, in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order for Deferred Discipline & KSTAR Program.

Further, RESPONDENT SHALL not commit any violation of the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* for a period of three (3) years from the date of this Order.

III. KNOWLEDGE, SKILLS, TRAINING, ASSESSMENT AND RESEARCH (KSTAR) PROGRAM

IT IS AGREED and ORDERED that RESPONDENT SHALL, **within one (1) year of the effective date of this Order**, successfully complete the Knowledge, Skills, Training, Assessment and Research (KSTAR) Program and RESPONDENT SHALL:

- A. **Within forty-five (45) days** following the effective date of this Order, apply to and enroll in the KSTAR Program, including payment of any fees and costs, unless otherwise agreed in writing;
- B. Submit to an individualized assessment designed to evaluate RESPONDENT'S nursing practice competency and to support a targeted remediation plan;
- C. Follow all requirements within the remediation plan, if any;
- D. Successfully complete a Board-approved course in Texas nursing jurisprudence and ethics as part of the KSTAR Program; and
- E. Provide written documentation of successful completion of the KSTAR Program to the attention of Monitoring at the Board's office.

IV. FURTHER COMPETENCY ISSUES AND VIOLATIONS

IT IS FURTHER AGREED, SHOULD RESPONDENT'S individualized KSTAR Program assessment identify further competency issues and violations of the Nursing Practice Act, including inability to practice nursing safely, further disciplinary action, up to and including revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas, may be taken based on such results in the assessments.

V. EFFECT OF DEFERRED DISCIPLINE

Upon successful completion of the stipulated requirements of this Agreed Order for Deferred Discipline & KSTAR Program, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

Upon the successful completion of the required three (3) year period of deferral, the complaint or complaints which formed the basis for this action will be dismissed and this Order will be made confidential to the same extent as a complaint filed under Section 301.466, Texas Occupations Code.

Until such time that this Order is made confidential, this Order is subject to disclosure in accordance with applicable law.

Should an additional allegation, complaint, accusation, or petition be reported or filed against RESPONDENT prior to the time this Order is made confidential, the deferral period shall be extended until the allegation, accusation, or petition has been finally acted upon by the Board.

Should RESPONDENT commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including possible revocation of my license(s) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 17th day of MAY, 2021.


SHEILA SUSAN CUNNINGHAM, RESPONDENT

Sworn to and subscribed before me this _____ day of _____, 20____.

SEAL

Notary Public in and for the State of _____

Approved as to form and substance.


Phong P. Phan, Attorney for Respondent

Signed this 18TH day of May, 2021.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order for Deferred Discipline & KSTAR Program that was signed on the 17th day of May, 20 21, by SHEILA SUSAN CUNNINGHAM, Registered Nurse License Number 745468, and Vocational Nurse License Number 168924, and said Agreed Order for Deferred Discipline & KSTAR Program is final.

Effective this 8th day of June, 20 21.



Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board